

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

CHARLES CURRY AND KENDRA)
CURRY,)
Plaintiffs,)
v.) Civil Action No. 3:08cv623
WELLS FARGO BANK c/o OPTION)
ONE MORTGAGE CORPORATION,)
AMERICAN HOME MORTGAGE)
SERVICING, INC., EXPERIAN)
INFORMATION SOLTUIONS, INC., and)
EQUIFAX INFORMATION)
SERVICES LLC,)
Defendants.)

ANSWER OF DEFENDANT EQUIFAX INFORMATION SERVICES LLC

COMES NOW, Equifax Information Services LLC ("Equifax"), by and through its counsel, and pursuant to Fed. R. Civ. P. 8 and 12, hereby files its answer and defenses to Plaintiffs' Complaint as follows:

PRELIMINARY STATEMENT

1. To the extent Paragraph 1 of Plaintiffs' Complaint calls for a response from Equifax, Equifax denies that Plaintiffs can state a claim under the RESPA, the FCRA, the FDCPA and the common law tort of defamation against it, and denies that Plaintiffs are entitled to the damages they seeks in this action.

JURISDICTION

2. Equifax admits the allegations contained in Paragraph 2 of Plaintiffs' Complaint.

PARTIES

3. Upon information and belief, Equifax admits that Plaintiffs are consumers as defined and governed by the FCRA. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 3 of Plaintiffs' Complaint.

4. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of Plaintiffs' Complaint.

5. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of Plaintiffs' Complaint.

6. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of Plaintiffs' Complaint.

7. Responding to the allegations contained in Paragraph 7 of Plaintiffs' Complaint, Equifax admits that it is a consumer reporting agency and is regularly engaged in preparing consumer reports as defined by 15 U.S.C. §§ 1681(d) and 1681(f).

FACTS

8. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of Plaintiffs' Complaint.

9. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of Plaintiffs' Complaint.

10. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of Plaintiffs' Complaint.

11. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of Plaintiffs' Complaint.

12. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of Plaintiffs' Complaint.

13. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of Plaintiffs' Complaint.

14. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of Plaintiffs' Complaint.

15. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of Plaintiffs' Complaint.

16. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of Plaintiffs' Complaint.

17. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of Plaintiffs' Complaint.

18. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of Plaintiffs' Complaint.

19. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of Plaintiffs' Complaint.

20. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of Plaintiffs' Complaint.

21. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of Plaintiffs' Complaint.

22. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 of Plaintiffs' Complaint.

23. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of Plaintiffs' Complaint.

24. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24 of Plaintiffs' Complaint.

25. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of Plaintiffs' Complaint.

26. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of Plaintiffs' Complaint.

27. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of Plaintiffs' Complaint.

28. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of Plaintiffs' Complaint.

29. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 of Plaintiffs' Complaint.

30. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30 of Plaintiffs' Complaint.

31. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 31 of Plaintiffs' Complaint.

32. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 of Plaintiffs' Complaint.

33. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of Plaintiffs' Complaint.

34. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34 of Plaintiffs' Complaint.

35. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 35 of Plaintiffs' Complaint.

36. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of Plaintiffs' Complaint.

37. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37 of Plaintiffs' Complaint.

38. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 38 of Plaintiffs' Complaint.

39. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 39 of Plaintiffs' Complaint.

40. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 40 of Plaintiffs' Complaint.

41. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41 of Plaintiffs' Complaint.

42. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 42 of Plaintiffs' Complaint.

43. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43 of Plaintiffs' Complaint.

44. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 44 of Plaintiffs' Complaint.

45. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 45 of Plaintiffs' Complaint.

46. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of Plaintiffs' Complaint.

47. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47 of Plaintiffs' Complaint.

48. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of Plaintiffs' Complaint.

49. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49 of Plaintiffs' Complaint.

50. Responding to Paragraph 50 of Plaintiffs' Complaint, Equifax states that Plaintiffs received copies of their respective Equifax credit reports on June 10, 2008. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 50 of Plaintiffs' Complaint.

51. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 51 of Plaintiffs' Complaint.

52. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 52 of Plaintiffs' Complaint.

53. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 53 of Plaintiffs' Complaint.

54. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 54 of Plaintiffs' Complaint.

55. Responding to Paragraph 55 of Plaintiff's Complaint, Equifax states that it received letters from Plaintiffs on July 6, 2008 disputing the accuracy of the Option One Mortgage tradelines account number **2478. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 55 of Plaintiffs' Complaint.

56. Responding to Paragraph 56 of Plaintiff's Complaint, Equifax states that in response to Plaintiffs' disputes of the Option One Mortgage tradelines (account number **2478) in July 2008, Option One Mortgage verified and modified the account information. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 56 of Plaintiffs' Complaint.

57. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 57 of Plaintiffs' Complaint.

58. Equifax denies the allegations contained in Paragraph 58 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 58 of Plaintiffs' Complaint.

59. Equifax denies the allegations contained in Paragraph 59 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 59 of Plaintiffs' Complaint.

60. Equifax denies the allegations contained in Paragraph 60 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 60 of Plaintiffs' Complaint.

61. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 61 of Plaintiffs' Complaint.

62. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 62 of Plaintiffs' Complaint.

63. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 63 of Plaintiffs' Complaint.

FIRST CLAIM: VIOLATION OF RESPA
(As to Option One re the first Qualified Written Request)

64. In response to Paragraph 64 of Plaintiffs' Complaint, Equifax restates and incorporates its responses to paragraphs 1 – 63 as though fully set forth herein.

65. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 65 of Plaintiffs' Complaint.

66. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 66 of Plaintiffs' Complaint.

SECOND CLAIM: VIOLATION OF RESPA
(As to Option One re the second Qualified Written Request)

67. In response to Paragraph 67 of Plaintiffs' Complaint, Equifax restates and incorporates its responses to paragraphs 1 – 66 as though fully set forth herein.

68. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 68 of Plaintiffs' Complaint.

69. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 69 of Plaintiffs' Complaint.

THIRD CLAIM: VIOLATION OF RESPA
(As to Option One only)

70. In response to Paragraph 70 of Plaintiffs' Complaint, Equifax restates and incorporates its responses to paragraphs 1 – 69 as though fully set forth herein.

71. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 71 of Plaintiffs' Complaint.

72. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 72 of Plaintiffs' Complaint.

73. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 73 of Plaintiffs' Complaint.

74. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 74 of Plaintiffs' Complaint.

FOURTH CLAIM: VIOLATION OF RESPA
(As to Option One re the third Qualified Written Request)

75. In response to Paragraph 75 of Plaintiffs' Complaint, Equifax restates and incorporates its responses to paragraphs 1 – 74 as though fully set forth herein.

76. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 76 of Plaintiffs' Complaint.

77. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 77 of Plaintiffs' Complaint.

FIFTH CLAIM: VIOLATION OF FCRA
(As to Option One)

78. In response to Paragraph 78 of Plaintiffs' Complaint, Equifax restates and incorporates its responses to paragraphs 1 – 77 as though fully set forth herein.

79. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 79 of Plaintiffs' Complaint.

80. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 80 of Plaintiffs' Complaint.

81. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 81 of Plaintiffs' Complaint.

82. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 82 of Plaintiffs' Complaint.

SIXTH CLAIM: VIOLATION OF FCRA
(as to Experian and Equifax)

83. In response to Paragraph 83 of Plaintiffs' Complaint, Equifax restates and incorporates its responses to paragraphs 1 – 82 as though fully set forth herein.

84. Equifax denies the allegations contained in Paragraph 84 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 84 of Plaintiffs' Complaint.

85. Equifax denies the allegations contained in Paragraph 85 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 85 of Plaintiffs' Complaint.

86. Equifax denies the allegations contained in Paragraph 86 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 86 of Plaintiffs' Complaint.

87. Equifax denies the allegations contained in Paragraph 87 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 87 of Plaintiffs' Complaint.

SEVENTH CLAIM: VIOLATION OF FCRA
(as to Experian and Equifax)

88. In response to Paragraph 88 of Plaintiffs' Complaint, Equifax restates and incorporates its responses to paragraphs 1 – 77 as though fully set forth herein.

89. Equifax denies the allegations contained in Paragraph 89 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 89 of Plaintiffs' Complaint.

90. Equifax denies the allegations contained in Paragraph 90 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 90 of Plaintiffs' Complaint.

91. Equifax denies the allegations contained in Paragraph 91 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 91 of Plaintiffs' Complaint.

92. Equifax denies the allegations contained in Paragraph 92 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 92 of Plaintiffs' Complaint.

EIGHTH CLAIM: VIOLATION OF FDCPA
(As to American)

93. In response to Paragraph 93 of Plaintiffs' Complaint, Equifax restates and incorporates its responses to paragraphs 1 – 92 as though fully set forth herein.

94. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 94 of Plaintiffs' Complaint.

95. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 95 of Plaintiffs' Complaint.

96. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 96 of Plaintiffs' Complaint.

NINTH CLAIM: DEFAMATION
(As to Option One and American)

97. In response to Paragraph 97 of Plaintiffs' Complaint, Equifax restates and incorporates its responses to paragraphs 1 – 96 as though fully set forth herein.

98. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 98 of Plaintiffs' Complaint.

99. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 99 of Plaintiffs' Complaint.

100. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 100 of Plaintiffs' Complaint.

101. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 101 of Plaintiffs' Complaint.

102. Equifax denies that Plaintiffs are entitled to any of the relief set forth in Plaintiffs' Complaint.

103. Any allegations contained in Plaintiffs' Complaint not specifically responded to above are hereby expressly denied.

104. Equifax admits that Plaintiffs demand a trial by jury.

DEFENSES

Without assuming the burden of proof where it otherwise rests with Plaintiffs, Equifax pleads the following defenses to the complaint:

FIRST DEFENSE

Plaintiffs' Complaint fails, in whole or in part, to state a claim against Equifax upon which relief can be granted.

SECOND DEFENSE

Plaintiffs' damages, if any, were not caused by Equifax, but by other persons or entities for whom or for which Equifax is not responsible.

THIRD DEFENSE

At all times relevant herein, Equifax maintained reasonable procedures in its handling of Plaintiffs' consumer credit files.

FOURTH DEFENSE

Some or all of Plaintiffs' claims against Equifax are barred by the applicable statute of limitations.

FIFTH DEFENSE

Equifax has complied with the Fair Credit Reporting Act in its handling of Plaintiffs' credit files, and is entitled to each and every defense stated in the Act and any and all limitations of liability.

SIXTH DEFENSE

Plaintiffs' claim for punitive damages is barred or limited by the provisions of 15 U.S.C. §1681n.

SEVENTH DEFENSE

Plaintiffs' Complaint seeks the imposition of punitive damages. Equifax adopts by reference the defenses, criteria, limitations, standards and constitutional protections mandated or provided by the United States Supreme Court in the following cases: BMW v. Gore, 517 U.S. 559 (1996); Cooper Indus., Inc. v. Leatherman Tool Group, Inc., 532 U.S. 923 (2001) and State Farm v. Campbell, 538 U.S. 408 (2003).

EIGHTH DEFENSE

Plaintiffs cannot establish the standard of willfulness under the Fair Credit Reporting Act as articulated by the Supreme Court in Safeco Insurance Co. of America v. Burr, 127 S. Ct. 2201 (2007).

NINTH DEFENSE

Equifax reserves the right to plead additional defenses that it learns of through the course of discovery.

WHEREFORE, having fully answered or otherwise responded to the allegations contained in Plaintiffs' Complaint, Equifax prays that:

- (1) Plaintiffs' Complaint be dismissed in its entirety and with prejudice, with all costs taxed against Plaintiff;
- (2) That Equifax be dismissed as a party to this action;
- (3) That Equifax recover from Plaintiffs its expenses of litigation, including attorneys' fees; and
- (4) That Equifax recover such other and additional relief, as the Court deems just and appropriate.

Respectfully submitted this 3rd day of November, 2008

EQUIFAX INFORMATION SERVICES LLC

/s/
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing ANSWER AND DEFENSES by depositing a copy of the same in the United States Mail, first class postage prepaid, addressed to counsel of record as follows:

Leonard A. Bennett
Robin A. Abbott
Gary L. Abbott
Consumer Litigation Associates, P.C.
12515 Warwick Boulevard, Suite 100
Newport News, Virginia 23606

Dated: November 3rd, 2008

/s/
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